



February 20, 2004

ENGROSSED HOUSE BILL No. 1285

DIGEST OF HB 1285 (Updated February 19, 2004 11:07 am - DI 102)

Citations Affected: IC 5-10.2; IC 5-10.3; noncode.

Synopsis: Early withdrawal of PERF contributions. Authorizes a member of the public employees' retirement fund (PERF), before retirement, to withdraw voluntary contributions to the member's annuity savings account when the member demonstrates an immediate and great financial need.

Effective: July 1, 2004.

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(SENATE SPONSORS — HARRISON, LEWIS)

January 15, 2004, read first time and referred to Committee on Labor and Employment.
January 29, 2004, reported — Do Pass.
February 2, 2004, read second time, ordered engrossed.
February 3, 2004, engrossed.
February 5, 2004, read third time, passed. Yeas 89, nays 2.

SENATE ACTION

February 10, 2004, read first time and referred to Committee on Pensions and Labor.
February 19, 2004, reported favorably — Do Pass.

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February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1285

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10.2-3-2, AS AMENDED BY P.L.246-2001,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this
4 section, "compensation" means:

- 5 (1) the basic salary earned by and paid to the member; plus
6 (2) the amount that would have been a part of the basic salary
7 earned and paid except for the member's salary reduction
8 agreement established under Section 125, 403(b), or 457 of the
9 Internal Revenue Code.

10 (b) Except in cases where the contribution is made on behalf of the
11 member, each member shall, as a condition of employment, contribute
12 to the fund three percent (3%) of ~~his~~ **the member's** compensation.

13 (c) A member of a fund may make contributions to the member's
14 annuity savings account in addition to the contributions required under
15 subsection (b). The total amount of contributions that may be made to
16 a member's annuity savings account with respect to a payroll period
17 under this subsection may not exceed ten percent (10%) of the

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member's compensation for that payroll period. The contributions made under this subsection may be picked up and paid by an employer as provided in subsection (d).

(d) In compliance with rules adopted by each board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick up and pay the contributions under subsection (c), subject to approval of the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked up by the employer. Each board shall by rule establish the procedural requirements for employers to carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code.

(e) A member's contributions and interest credits belong to the member and do not belong to the state or political subdivision.

(f) In addition to:

(1) a withdrawal of contributions under:

(A) section 6 or 6.2 of this chapter; or

(B) IC 5-10.3-7-13; or

(2) a distribution under IC 5-10.2-4-2;

a member of the public employees' retirement fund may withdraw all or part of the member's voluntary contributions under subsection (c) if the member demonstrates an immediate and great financial need and the withdrawal is necessary to satisfy the financial need.

(g) A withdrawal under subsection (f) must comply with IC 5-10.3-7-16.

SECTION 2. IC 5-10.3-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. (a) A member who demonstrates an immediate and great financial need may withdraw all or part of the member's voluntary contributions under IC 5-10.2-3-2 if the withdrawal is necessary to satisfy the financial need.**

(b) The maximum amount that a member may withdraw under subsection (a) is the lesser of:

(1) the amount necessary to satisfy a demonstrated immediate and great financial need that cannot be satisfied from other resources that are reasonably available to the member; or

(2) the total amount of the member's voluntary contributions under IC 5-10.2-3-2(c).

(c) The board shall determine whether a member has an immediate and great financial need based on all relevant facts and

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1 circumstances. The board shall consider the expenses for medical
 2 care (as defined in 26 U.S.C. 213(d)) incurred by the member, the
 3 member's spouse, or the member's dependent children that are not
 4 reimbursed by insurance as an immediate and great financial need.

5 (d) The board shall determine the amount necessary to
 6 demonstrate an immediate and great financial need of a member
 7 based on all relevant facts and circumstances. The board shall
 8 consider the following in determining the necessary amount:

9 (1) Whether the proposed withdrawal amount exceeds the
 10 amount of the member's demonstrated immediate and great
 11 financial need, including an amount necessary to pay the
 12 federal, state, or local income taxes or penalties reasonably
 13 anticipated to result from the withdrawal.

14 (2) Whether the member has tried to relieve the need by using
 15 other resources reasonably available to the member,
 16 including:

17 (A) reimbursement or compensation by insurance;

18 (B) liquidation of the member's assets;

19 (C) stopping voluntary contributions to the fund;

20 (D) receiving distributions or nontaxable loans from other
 21 pension or savings plans; or

22 (E) borrowing from commercial sources on reasonable
 23 commercial terms.

24 (e) A member may not make voluntary contributions to the
 25 member's annuity savings account for at least twelve (12) months
 26 after the member makes a withdrawal under this section.

27 (f) The board shall establish procedures to implement this
 28 section.

29 (g) This section may be implemented only if the board has
 30 received from the Internal Revenue Service any rulings or
 31 determination letters that the board considers necessary or
 32 appropriate for the implementation of this section.

33 SECTION 3. [EFFECTIVE JULY 1, 2004] (a) Before November
 34 1, 2005, the public employees' retirement fund board of trustees
 35 established by IC 5-10.3-2-1 shall report to the pension
 36 management oversight commission established by IC 2-5-12-1 on
 37 the status of the implementation of IC 5-10.2-3-2, as amended by
 38 this act, and IC 5-10.3-7-16, as added by this act.

39 (b) This SECTION expires November 1, 2005.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1285, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 10, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1285, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1285 as printed January 30, 2004.)

HARRISON, Chairperson

Committee Vote: Yeas 8, Nays 0.

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